

BOMBAY ACT NO. VI OF 1933.¹

[THE BOMBAY VILLAGE PANCHAYATS ACT, 1933.]

[12th June 1933]

Amended by Bom. 34 of 1935.

24 of 1936.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

Amended by Bom. 18 of 1939.

" " " 2 of 1945.*

" " " 24 of 1946.

" " " 60 of 1947.

" " " 4 of 1949.

" " " 45 of 1949.

" " " 8 of 1950.

" " " 17 of 1950.†

Adapted and modified by the Adaptation of Laws Order, 1950.

Amended by Bom. 31 of 1950.

" " " 10 of 1951.

" " " 23 of 1951.

" " " 39 of 1951.

" " " 14 of 1952.

" " " 9 of 1953.

" " " 19 of 1953.

" " " 7 of 1954.

" " " 20 of 1954.

" " " 67 of 1954.

An Act to amend and consolidate the law relating to the constitution of
Village Panchayats.

WHEREAS it is expedient to amend and consolidate the law relating to the constitution of village panchayats, with a view to fostering their growth and of increasing their utility in the further development of local self-Government in rural areas and in the administration of civil and criminal justice ; and whereas the previous sanction of the Governor General required by sub-section (3) of section 5 & 6 Geo. V. c. 61. of the Government of India Act and of the Governor required under section 80A of the said Act have been obtained for the passing of this Act ; It is hereby enacted

CHAPTER I.

PRELIMINARY.

1. This Act may be called the Bombay Village Panchayats Act, 1933. Short title.
2. It extends to the whole of the Presidency of Bombay except ²[Greater Extent. Bombay.]

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1932, Pt. V, pp. 200-211 ; for Report of the Select Committee, see *ibid.*, 1933, Pt. V, pp. 1-14 ; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1932, Vol. XXXV, 1933, Vol. XXXVII.

² These words were substituted for the words "the City of Bombay" by Bom. 17 of 1945, s. 9, read with Bom. 8 of 1950.

* This Act was re-enacted with modifications by Bom. 60 of 1947, s. 2.

† Section 8 of Bom. 17 of 1950 reads as follows :—

" 8. *Saving.*—Nothing in this Act shall affect the right of any Councillor or member elected to fill the seats reserved for Muslims or Muhammadans, Anglo-Indians or Indian Christians to continue as a Councillor or member of a municipality, local board or village panchayat, as the case may be, during the term of the office for which he was validly elected before this Act came into force."

Definitions. 3. In this Act, unless there is anything repugnant in the subject or context—

[(1) "Scheduled Tribes" means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed to be Scheduled Tribes in relation to the State of Bombay under article 342 of the Constitution of India].

[(1A) "by-laws" means by-laws made by the district local board under section 109 ;

(2) "case" means, with reference to any judicial proceedings, a criminal proceeding in respect of any offence triable by a [nyaya panchayat] ;

(3) "chairman" means the chairman of a [nyaya panchayat] appointed under [section 37A] ;

(4) "district local board," used with reference to any local area, means a district local board established under the Bombay Local Boards Act, 1923, for the district in which such local area is situated ; Bom. VI of 1923.

[(5) "Scheduled Castes" means such castes or tribes or parts of or groups within such castes, races or tribes as are deemed to be Scheduled Castes in relation to the State of Bombay under article 341 of the Constitution of India and until the notification in relation to the State of Bombay is issued under that article means Scheduled Castes as defined in the Government of India (Scheduled Castes) Order, 1936.] ;

(6) "offence" means any act or omission made punishable by any law for the time being in force ;

(7) "panchayat" means a panchayat established under this Act ;

(8) "prescribed" means prescribed by rules ;

(9) "revenue village" means any local area which is recognised as a village in the revenue accounts ;

(10) "rules" means rules made by [the [State] Government] under section 108 ;

(11) "sarpanch" means a sarpanch elected under section 14 ;

(12) "school-board" means a school-board constituted under [section 4] of the Bombay Primary Education Act, [1947] ; Bom. LXI of 1947.

(13) "suit" means civil suit triable by a [nyaya panchayat] under this Act ; LXI of 1947.

(14) "tax" means a tax, cess, rate, or other impost leviable under this Act ¹⁰[but does not include a fee] ;

(15) the expression "the term of a panchayat" means the period for which the elected members thereof shall hold office under section 11;

(16) "village" means any local area declared to be a village under section 4 ;

(17) "[nyaya panchayat]" means a [nyaya panchayat] constituted under ^{11*} * * * * section 37 for the purpose of the trial of suits and cases.

¹ This clause was substituted for the original by Bom. 17 of 1950, s. 7 (1) (a).

² This clause was re-numbered as clause (1A) by Bom. 18 of 1939, s. 2 (ii).

³ These words were substituted for the words "village bench" or "bench" by Bom. 60 of 1947, s. 25.

⁴ The word, figures and letter "section 37A" were substituted for the words, brackets and figures "sub-section (4) of section 37" by Bom. 18 of 1939, s. 2 (iii).

⁵ Clause (5) was substituted for the original by Bom. 17 of 1950, s. 7.

⁶ The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order, n^o Council.

⁷ The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

⁸ This word and figure were substituted for the word and figure "section 3" by Bom. 45 of 1949, section 2.

⁹ These figures were substituted for the figures "1923", *ibid.*

¹⁰ These words were added by Bom. 31 of 1950, s. 2.

¹¹ The words, brackets and figure "sub-section (1) of" were deleted by Bom. 18 of 1939, s. 2(r).

¹[Provided that when no meeting for the election of a sarpanch has been called by the retiring sarpanch on the date fixed under sub-section (1) of section 12 or if a meeting called by him for this purpose on the aforesaid date has not been attended by him, the president of the district local board shall proceed to convene a meeting of the panchayat in the manner described in sub-section (1) and a new sarpanch shall be elected accordingly.

If the president of the district local board fails to convene such meeting within a period of 15 days from the date fixed under sub-section (1) of section 12, the Collector himself shall convene such meeting. The president of the district local board or the Collector, as the case may be, shall nominate one of the members to preside at the meeting so convened. If the person so nominated fails to preside at the meeting the members present shall elect one of them to provide.]

²[(3) In the event of a dispute arising as to the validity of the election of a sarpanch under sub-section (1) or sub-section (2), ³[or of the election of a deputy sarpanch], the dispute shall be referred to the Collector for decision. The decision of the Collector shall be final and no suit or other proceeding shall lie in any court in respect of any such decision.]

18. The deputy sarpanch may resign his office by giving notice in writing to the Resignation by sarpanch or deputy sarpanch.

The sarpanch may resign his office by giving notice in writing to the president of ^{or deputy} sarpanch. The district local board.

Such resignations shall take effect from the date of their acceptance.

19. The time and place of sitting and the procedure at a meeting of the panchayat shall be in accordance with by-laws. Time and place of sitting of panchayat and procedure at meetings.

20. The executive power for the purpose of carrying out the provisions of this Executive of panchayat. Act and the resolutions passed by a panchayat vests in the sarpanch who shall be directly responsible for the due fulfilment of the duties imposed upon the panchayat by or under this Act. In the absence of the sarpanch, the powers and duties of the sarpanch shall, save as may be otherwise prescribed by by-laws be exercised and performed by the deputy sarpanch.

21. The district local board may, after giving due notice to the panchayat and Removal from office. after such enquiry as it thinks fit, remove from office with the previous sanction of the Collector any member or any sarpanch or deputy sarpanch who ⁴[has been guilty of misconduct, or neglect of or incapacity to perform his duty] or is persistently remiss in the discharge of his duties. A sarpanch or deputy sarpanch so removed may, at the discretion of the district local board, and subject to the like sanction also be removed from the panchayat. * * *

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¹ This proviso was substituted for the original by Bom. 18 of 1939, s. 14 (iii).

² This sub-section was added by Bom. 60 of 1947, s. 6.

³ These words were inserted by Bom. 7 of 1954, s. 5 (1).

⁴ These words were substituted for the words "in its opinion is unfit to be member or sarpanch or deputy sarpanch as the case may be" by Bom. 18 of 1939, s. 15 (i).

⁵ The words "unless he is an ex-officio member of the panchayat" were deleted, *ibid.*, s. 15 (ii).

⁶ The words "The panchayat may, with the previous sanction of the president of the district local board, and after due notice and inquiry remove the secretary of a panchayat from office for similar reasons" were deleted, *ibid.*, s. 15 (iii).

Leave of absence.

22. (1) Any ^{1*}member of a panchayat who, during his term of office,—

(a) is absent for more than four consecutive months from the village unless leave not exceeding six months, so to absent himself, has been granted by the panchayat; or

(b) absents himself for six consecutive months from the meetings of the panchayat without the leave of the said panchayat,

shall cease to be a member and his office shall become vacant.

(2) Any dispute as to whether a vacancy has or has not occurred under this section shall be referred for decision to the Collector whose decision shall be final.

²[22A. A member of a panchayat whose appointment has been declared invalid under section 9A or whose office has become vacant under section 22 shall, if his disqualification or disability has ceased, be eligible for re-election.]

23. (1) Any vacancy of which notice shall have been given to the Collector in the prescribed manner due to the disablement, death, resignation, disqualification absence without leave or removal of a sarpanch or a deputy sarpanch, or ³[^a] member, shall be filled, by the election of a sarpanch or deputy sarpanch or ^{4*} * * * * a member, who shall hold office so long only as the sarpanch, deputy sarpanch or member, in whose place he has been elected, ^{5*} * * would have held office if the vacancy had not occurred:

⁶[Provided that if no member is so elected within four weeks from the date on which notice of the vacancy is given to the Collector, the standing committee of the district local board, shall, within the next ⁷[eight] weeks, appoint a person who would have been qualified to be elected. If the standing committee of the district local board fails to make any such appointment within the time specified, the Collector shall make such appointment and the person so appointed shall be deemed to have been duly elected under this sub-section.]

⁸[Provided further that notwithstanding anything contained in section 6, if the vacancy be of an elected member and occurs within four months preceding the date on which the term of office of the members of the panchayat expires under section 11, the vacancy shall not be filled.]

(2) The meeting for the election of a sarpanch under sub-section (1) shall be convened by the president of the district local board in the manner described in sub-section (1) of section 17.

Vacancy not to affect proceedings of panchayat.

24. During any vacancy in the panchayat, the continuing members may act as if no vacancy had occurred.

Temporary provision pending establishment of panchayats under this Act.

25. Notwithstanding anything contained in this Act, the village fund shall, until such date as ⁹[the ¹⁰[State] Government] may notify in the ¹¹[Official Gazette], be administered, so far as may be, under the provisions of this Act by the panchayats constituted under the Bombay Village Panchayats Act, 1920, which panchayats shall be deemed to have been established under this Act.

Bom.
IX of
1920.

¹ The words "elected or nominated" were deleted by Bom. 18 of 1939, s. 16.

² Section 22-A was inserted by Bom. 14 of 1952, s. 2.

³ The letter "a" was substituted for the words "an elected or nominated" by Bom. 18 of 1939, s. 17 (i).

⁴ The words "the election or nomination of" were deleted, *ibid.*, s. 17 (ii).

⁵ The words "or nominated" were deleted, *ibid.*, s. 17 (iii).

⁶ This proviso was added by Bom. 60 of 1947, s. 7.

⁷ This word was substituted for the word "four" by Bom. 31 of 1950, s. 5.

⁸ This further proviso was added by Bom. 4 of 1949, s. 3.

⁹ The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

¹⁰ This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

¹¹ The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by the Adaptation of Indian Laws Order in Council.

CHAPTER III.

ADMINISTRATIVE POWERS AND DUTIES.

26. (1) It shall be the duty of a panchayat, so far as the village funds at its disposal will allow subject to the general control of the district local board, to make reasonable provision within the village in regard to the following matters, namely :—

- (a) the supply of water for domestic use ;
- (b) the cleansing of the public roads, drains, bunds, tanks and wells (other than tanks and wells used for irrigation) and other public places or works ;
- ¹[(ba) the removing of obstructions and projections in public streets or places and in sites not being private property, which are open to the enjoyment of the public, whether such sites are vested in the panchayat or belong to Government ;]
- (c) the construction, maintenance and repair of public roads, drains, bunds and bridges :

Provided that, if the roads, drains, bunds and bridges vest in any other public authority, such works shall not be undertaken without the consent of such authority ;

- ²[(d) sanitation, conservancy, the prevention and abatement of nuisances ; and the disposal of carcasses of dead animals ;]
 - (e) the preservation and improvement of the public health ;
 - (f) the maintenance and regulation of the use of public buildings, grazing lands, forest lands (including lands assigned under section 28 of the ³Indian Forest Act, 1927), tanks and wells (other than tanks and wells used for irrigation), vesting in or under the control of the panchayat ;
 - (g) the lighting of the village ;
 - (h) control of fairs, bazars, slaughter-houses and cart-stands ; and
 - (i) provision, ⁴[maintenance and regulation] of burning and burial grounds.
- * * * * *

⁵[(2)] A panchayat may, with the previous sanction of the district local board, also make provision for carrying out outside the village any work of the nature specified in ⁷[sub-section (1)].

⁸[**26A.** (1) It shall be competent to a panchayat, so far as the village fund at its disposal will allow and subject to the general control of the district local board, to make reasonable provision within the village in regard to the following matters, namely :—

- (a) crop experiments ;
- (b) construction and maintenance of slaughter-houses ;
- (c) relief of the destitute and the sick ;
- (d) improvement of agriculture ;
- (e) co-operative farming ;
- (f) improvement of cattle and their breeding and the general care of the live-stock ;
- (g) establishment of granaries ;
- (h) village libraries and reading-rooms ;

¹ Clause (ba) was inserted by Bom. 31 of 1950, s. 6.

² Clause (d) was substituted for the original by Bom. 7 of 1954, s. 6.

³ See Central Acts.

⁴ These words were substituted for the words "and maintenance" by Bom. 60 of 1947, s. 8.

⁵ The original sub-section (2) was deleted, *ibid.*

⁶ Sub-section (2) was renumbered as sub-section (2), *ibid.*

⁷ This was substituted for "sub-sections (1) and (2)", *ibid.*

⁸ This section was inserted, *ibid.*, s. 9.

- (i) planting of trees along roads in market places and other public places and their maintenance and preservation;
- (j) lay-out and maintenance of play-grounds for village children and of public gardens;
- (k) promotion, improvement and encouragement of cottage industries;
- (l) destruction of stray and ownerless dogs;
- (m) construction and maintenance of dharamshalas;
- (n) management and control of ghats which are not managed by any other authority;
- (o) assistance to the residents when any natural calamity occurs;
- (p) disposal of unclaimed corpses * * * and unclaimed cattle;
- (q) construction and maintenance of public latrines;
- (r) establishment and maintenance of markets;
- (s) watch and ward of the village and the crops therein:

Provided that the cost of watch and ward under paragraph (s) shall be levied and recovered by the panchayat from such persons in the village and in such manner as may be prescribed;

- (t) construction and maintenance of houses for the conservancy staff of the panchayat.

(2) A panchayat may also make provision for carrying out within the village any other work or measure which is likely to promote the health, safety, education, comfort, convenience or social or economic well-being of the inhabitants of the village.]

²[(3) A panchayat may by a resolution passed at its meeting and supported by two-thirds of the whole number of its members make provision for any public reception, ceremony, entertainment or exhibition within the village:

Provided that the panchayat shall not incur expenditure exceeding Rs. 25 on any such public reception, ceremony, entertainment or exhibition, except with the previous sanction of the Collector.]

Powers of
district local
board to
transfer
maintenance
of institu-
tions and
execution of
other works.

27. The district local board may, at any time, with the consent of the panchayat, transfer to such panchayat the management of any institution or the execution of any work not provided for in section 26, and it shall thereupon be lawful for such panchayat to undertake the management of such institution or the execution of such work:

Provided that in every such case the funds necessary for such management or execution shall be placed at the disposal of the panchayat by the district local board.

Other duties.

28. (1) The panchayat shall,—

- 3* * * *
- (ii) subject to by-laws to be made by the district local board in this behalf,—
 - (a) supervise the labour employed by local boards on works within the village;
 - (b) supervise repairs to dharamshalas;
 - (c) manage and maintain cattle pounds; and
 - (d) execute such works as are entrusted to it by the district local board; and

The words "and carcasses" were deleted by Bom. 7 of 1954, s. 7.

Sub-section (3) was added by Bom. 31 of 1950, s. 7.

Clause (i) was deleted by Bom. 45 of 1949, section 4 (a).

(iii) subject to such conditions as [the ²[State] Government] may impose and with the consent of the panchayat concerned, perform such other administrative duties including the distribution of irrigation water as may be assigned to it by [the ²[State] Government] by notification in the ³[Official Gazette], after consultation with the district local board.

* * * * *

(3) A panchayat shall not be bound to perform the duties specified in clause (ii) of sub-section (1) unless sufficient funds have been placed at the disposal of the panchayat by the district local board.

⁴[28A. (1) A panchayat may, from time to time, concur with any other Joint panchayat or with any municipality, district local board or cantonment authority or committee appointed for a notified area or with more than one such panchayat, municipality, district local board, authority or committee—
Committees of two or more local bodies.

(a) in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested and in appointing a chairman of such committee;

(b) in delegating to any such committee power to frame terms binding on each such body as to the construction and future maintenance of any joint work and any power which might be exercised by either or any of such bodies; and

(c) in framing and modifying rules for regulating the proceedings of any such committee and the conduct of correspondence, relating to the purpose for which the committee is appointed.

(2) A panchayat may from time to time enter, subject to the sanction of the ²[State] Government, into an agreement with any other panchayat, or with any municipality, district local board, cantonment authority or committee appointed for a notified area or with a combination of any such bodies, for the levy of octroi duty whereby the octroi duties respectively leviable by the bodies so contracting may be levied together instead of separately within the limits of the area subject to the control of the said bodies.

(3) Where a panchayat has requested the concurrence of any other local authority under the provisions of sub-section (1) or (2) in respect of any matter and such other local authority has refused to concur, the Commissioner may pass such orders as he may deem fit requiring the concurrence of such other local authority, not being a cantonment authority, in the matter aforesaid and such other local authority shall comply with such orders.

(4) If any difference of opinion arises between local bodies acting under this section, the decision thereupon of the ²[State] Government or of such officer as it appoints in this behalf shall be final:

¹ The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

² This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

³ The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by the Adaptation of Indian Laws Order in Council.

⁴ Sub-section (2) was deleted by Bom. 45 of 1949, s. 4 (b).

⁵ The words beginning with "to carry out" and ending with "as the case may be, or" were deleted, *ibid.*, s. 4 (c).

⁶ Section 28A was inserted by Bom. 4 of 1949, s. 4.

Provided that, where one of the local bodies is a cantonment authority, the decision of the [State] Government, or of the officer, shall be subject to the concurrence of the Central Government.]

Government
may vest
certain
lands in
panchayat.

²[28B. For the purposes of this Chapter, the [State] Government may, subject to such conditions and restrictions as it may think fit to impose, vest in a panchayat open sites, waste, vacant or grazing lands or public roads and streets, wells, river-beds, tanks, trees or any other property in the village vesting in the ³[Government].]

Obstructions
and encroach-
ments upon
public streets
and open
sites.

⁴[28C. (1) Whoever within the limits of the village,

(a) shall have built or set up, or shall build or set up, any wall, or any fence, rail, post, stall, veran-lah, platform, plinth, step or any projecting structure or thing, or other encroachment or obstruction, or

(b) shall deposit or cause to be placed or deposited any box, bale, package or merchandise, or any other thing,

in any public street or place or in or over or upon any open drain, gutter, sewer or aqueduct in such street or place shall, on conviction, be punished with fine which may extend to twenty rupees and with further fine which may extend to one rupee for every day on which such projection, encroachment, obstruction or deposit continues after the date of first conviction for such offence.

(2) The panchayat shall have power to remove any such obstruction or encroachment, and shall have the like power to remove any unauthorised obstruction or encroachment of the like nature in any open site not being private property, whether such site is vested in the panchayat or not, provided that if the site be vested in Government the permission of the Collector or any officer authorised by him in this behalf shall have first been obtained, the expense of such removal shall be paid by the person who has caused the said obstruction or encroachment and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter IX.

(3) Whoever, not being duly authorised in that behalf, removes earth, sand or other material from, or makes any encroachment in or upon any open site which is not private property shall, on conviction, be punished with fine which may extend to forty rupees, and, in the case of an encroachment, with further fine which may extend to two rupees for every day on which the encroachment continues after the date of first conviction.

(4) Nothing contained in this section shall prevent the panchayat from allowing any temporary occupation of or erection in any public street on occasions of festivals and ceremonies, or the piling of fuel in by-streets and sites for not more than four days, and in such manner as not to inconvenience the public or any individual.]

¹ This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

² This section was inserted by Bom. 60 of 1947, s. 10 and was renumbered as 28B by Bom. 4 of 1949, s. 4.

³ This word was substituted for the word " Crown " by the Adaptation of Laws Order, 1950.

⁴ Section 28C was inserted by Bom. 31 of 1950, s. 8.

CHAPTER IV.

INCORPORATION OF VILLAGE PANCHAYAT ; ITS PROPERTY AND FUND.

29. Every panchayat shall be a body corporate by the name of "the village Incorporation of village panchayat of _____" and shall have perpetual succession and a common seal, and may sue and be sued in its corporate name, and shall be competent to acquire and hold property, both moveable and immovable whether within or without the limits of the village over which it has authority, to lease, sell or otherwise transfer moveable or immovable property which may become vested in or be acquired by it, and to contract and do all other things necessary for the purposes of this Act :

Provided that no lease of immovable property (other than property referred to in sub-section (1) of section 30) for a term exceeding [three] years and no sale or other transfer of any such property shall be valid unless such lease, sale or other transfer shall have been made with the previous sanction of the Collector.

30. (1) It shall be competent to a local board from time to time to direct that any property vesting in such local board shall vest in panchayat [and on such direction being issued, the property shall vest in the panchayat notwithstanding anything contained in the Transfer of Property Act, 1882, or the Indian Registration Act, 1908] :

^{V of} ^{1882,} ^{XVI of} ^{1908.} ³[Provided that no lease, sale or other transfer of any such immovable property by the panchayat shall be valid without the previous sanction of the Commissioner and of such local board.]

(2) Every work constructed by a panchayat out of the village fund shall vest in such panchayat.

31. (1) There shall be in each village a fund, which shall be called the village fund.

(2) The following shall form part of, or be paid into, the village fund, namely :—

(a) the amount which may be allotted to the village fund by [the ⁵[State] Government] under the provisions of section 191 of the Bombay District Municipal Act, 1901 ;

(b) the proceeds of any tax or fee imposed under section 89 ;

(c) all ^{6*} * * sums ordered to be paid as compensation realised under sections 45 and 46 ;

(d) all other sums ordered by a court to be placed to the credit of the village fund ;

(e) the sale proceeds, except in so far as any person entitled to the whole or a portion thereof, of all dust, dirt, dung or refuse (including the dead bodies of animals) collected by the village servants ;

(f) sums contributed to the village fund by [the ⁵[State] Government] or a district local board ;

(g) all sums received by way of loans from [the ⁵[State] Government] or the district local board or by way of gift ;

* * * * *

¹ The word " three " was substituted for the word " seven " by Bom. 18 of 1939, s. 18.

² This portion was inserted by Bom. 60 of 1947, s. 11.

³ This proviso was substituted for the original, *ibid.*

⁴ The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

⁵ This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

⁶ The words " fines and " were omitted by the Adaptation of Indian Laws Order in Council.

⁷ Clause (h) was omitted, *ibid.*

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(i) Obstructions and encroachments upon public streets and open sites	28C(1) and (3).
(ii) Contravention of a by-law	109]:

¹ Clauses (c) to (h) were substituted for clause (c) by Bom. 60 of 1947, s. 15.² This clause was substituted for the original by Bom. 39 of 1951, s. 3, Second Schedule.³ The figures "1947" and "36" were substituted for the figures "1923" and "22" respectively by Bom. 45 of 1949, s. 5.⁴ This entry was inserted by Bom. 67 of 1954, s. 6.⁵ This clause was substituted for the original, *ibid.*, s. 9 (2).

Provided that no offence of theft shall be cognizable by any ¹[*nyaya panchayat*], unless an accused person has been either apprehended or recognised and named.

Certain persons accused of theft not to be tried by ¹[*nyaya panchayat*].

42. No ¹[*nyaya panchayat*] shall take cognizance of any offence of theft punishable under section 379 of the Indian Penal Code in which the accused—

XLV
of
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(a) has been previously convicted of an offence punishable, under Chapter XLV ^{XLV}
or Chapter XVII of the Indian Penal Code, with imprisonment of either ^{of}
1860. description for a term of three years or upwards;

(b) has been previously fined for theft by any ²[*nyaya panchayat*];

(c) is a registered member of a criminal tribe under section 4 of the ³Criminal Tribes Act, 1924; or

(d) has been bound over to be of good behaviour in proceedings instituted under section 109 or, section 110 of the Code of Criminal Procedure, 1898.

VI of
1924.
V of
1898.

Offences by or against public servant not cognizable by ¹[*nyaya panchayat*].

43. No ¹[*nyaya panchayat*] shall take cognizance of any offence specified in section 41 in which either the complainant or the accused is a public servant serving in the district in which the village for which the panchayat is established is situated:

Provided, however, that a ¹[*nyaya panchayat*] shall not be debarred from taking cognizance of an offence ⁴[⁵[punishable under section 35 or 36 of the Bombay Primary Education Act, 1947, or under] sub-section (1) or (3) of section 28C or of contravention of a by-law under sub-section (3) of section 109], notwithstanding that the complainant in the case is a public servant.

Conviction by a ¹[*nyaya panchayat*] not previous conviction.

44. A conviction by a ¹[*nyaya panchayat*] under this Act shall not be deemed to be a previous conviction for the purposes of section 75 of the Indian Penal Code.

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Maximum penalties.

45. (1) The following are the maximum penalties which may be inflicted by a ¹[*nyaya panchayat*] for the offences mentioned in section 41:—

(a) Under the Indian Penal Code—

Fine not exceeding Rs. ⁶[20] or double the amount of the loss or damage caused up to a limit of Rs. ⁶[40].

(b) Under section 24 of the Cattle-trespass Act, 1871—

Fine not exceeding Rs. ⁶[10].^{7*}

8*	*	*	*	*
*	*	*	*	*

9[(b1)] Under section 35 of the Bombay Primary Education Act, 1947—

Fine not exceeding Rs. 2 and in case the failure to compel the child to attend an approved school continues after the conviction, with fine of annas 8 for every day on which the failure continues or is repeated.]

10[(b2)] Under section ¹¹[36] of the Bombay Primary Education Act, ¹¹[1947], or under the provisions of any other Act mentioned in section 41—

Fine not exceeding Rs. 20; ^{12*}

Bom.

LXI of
1947.

11[1947].

LXI of

1947.

¹ These words were substituted for the words "village bench" or "Bench" by Bom. 60 of 1947, s. 25.

² These words were substituted for the word "panchayat", *ibid.*, s. 16.

³ The Criminal Tribes Act, 1924, has ceased to extend to the State of Bombay with effect from the 13th August 1949 (*vide G. N. H. D.*, No. 9642/5, dated the 5th August 1949). See therefore the Bombay Habitual Offenders Restriction Act, 1947 (Bom. 51 of 1947).

⁴ This portion was substituted for the words "for a breach of a by-law" by Bom. 31 of 1950, s. 10.

⁵ These words and figures were substituted for the words "punishable under" by Bom. 67 of 1954, s. 7.

⁶ These figures were substituted for the original by Bom. 60 of 1947, s. 17.

⁷ The word "and" was deleted, *ibid.*

⁸ The original clause (b2) was deleted by Bom. 31 of 1950, s. 11.

⁹ This clause was inserted by Bom. 67 of 1954, s. 8.

¹⁰ The original clause (bc) was re-lettered as clause (bb), by Bom. 31 of 1950, s. 11.

¹¹ The figures "36" and "1947" were substituted for the figures "22" and "1923" respectively by Bom. 45 of 1949, s. 6.

¹² The word "and" was deleted by Bom. 31 of 1950, s. 11.

¹[58A. A ²[*nyaya panchayat*] newly constituted on the expiry of the term of Pending cases office of the members of another ²[*nyaya panchayat*] ^{3*} * * * * before ²[*nyaya panchayat*] shall hear and dispose of all suits, cases and proceedings pending before the latter when term at the date of the expiry of such term ^{4*} * * * * : of office has expired.

Provided that the hearing of such suits, cases and proceedings shall commence anew before the ²[*nyaya panchayat*] newly constituted, as if such suits, cases and proceedings were instituted before it.]

CHAPTER VII.

PROCEDURE OF PANCHAYATS IN SUITS AND CASES.

59. Any person who wishes to institute a suit or case under this Act before a ^{Suits and cases; how instituted.} ²[*nyaya panchayat*] shall make an application orally or in writing to the Chairman ^{of} ^{cases; how instituted.} or during his absence from the village to such other member of the ²[*nyaya panchayat*] as the Chairman may appoint in this behalf and shall at the same time pay the prescribed fees.

⁵[Provided that an Administrative Officer appointed under the Bombay Primary Education Act, 1947, or any other officer authorised by him in this behalf wishing to institute a case of the nature specified in clause (f) of section 41 may send such application by registered post.]

60. The substance of the application shall be recorded without delay in the ^{Substance of application to be recorded.} prescribed register ⁶[and, except where an application has been sent by registered post, the signature or thumb impression of the applicant] shall be taken on the register and the register shall be signed by the Chairman or, in his absence, by any member authorised under section 59.

61. Every suit or case instituted in accordance with the provisions of section 59 Plaintiff or shall be brought before the ⁷[*nyaya panchayat*] at its next sitting and the plaintiff ^{complainant to attend.} or complainant, as the case may be, shall, at the time of making the application, ^{next sitting} be informed of the time and place fixed for such sitting and directed to attend ^{at} ⁸[*nyaya panchayat*]. that time and place.

62. The ⁹[*nyaya panchayat*] after hearing the application, shall cause a written summons to be issued to defendant or accused. summons in the prescribed form to be served on the defendant or accused, as the case may be, requiring him to attend and produce his evidence at such time and place as may be stated in the summons and shall, at the same time, direct the plaintiff or complainant to attend and produce his evidence at such time and place :

Provided that the ⁹[*nyaya panchayat*] may, for reasons to be recorded, after hearing the application and examining the plaintiff or complainant, refuse to issue a summons and dismiss the suit or complaint.

63. Such summons shall ordinarily be caused to be served by the patel or village headman: Where there are two patels in a village, one of whom is a revenue patel by whom served. and the other a police patel, the summons shall ordinarily be served by the revenue patel if it relates to a suit and by police patel if it relates to a case :

Provided, however, that a ¹⁰[*nyaya panchayat*] may cause the summons to be served through any other person.

¹ Section 58A was inserted by Bom. 18 of 1939, s. 27.

² These words were substituted for the words "village bench" or "bench" by Bom. 60 of 1947, s. 25.

³ The words "or a *nyaya panchayat* newly constituted on the dissolution of another *nyaya panchayat* under section 106", were deleted by Bom. 14 of 1952, s. 3.

⁴ The words "or at the date of such dissolution" were deleted, *ibid.*

⁵ This proviso was added by Bom. 67 of 1954, s. 9.

⁶ This portion was substituted for the words "and the signature or thumb impression of the applicant *ibid.*, s. 10.

Mode of service of summons.

64. The summons shall be in duplicate, signed by the presiding member of the ¹[*nyaya panchayat*] and shall, as far as possible, be served personally on the defendant or accused, as the case may be, whose signature or thumb-impression shall be taken in token of service. If the defendant or accused cannot be found and the ¹[*nyaya panchayat*] is satisfied that he is evading service or if he refuses to take the summons, the ¹[*nyaya panchayat*] may order service to be made on an adult male member of his family residing with him, or by affixing a copy thereof upon some conspicuous part of the house in which he ordinarily resides.

Mode of service outside village.

65. If a defendant or accused is, at the time of the issue of the summons, outside the village of the panchayat, the summons may be forwarded by the ¹[*nyaya panchayat*] to the Collector or to any officer not below the rank of a mamlatdar, who may be authorised by the Collector in this behalf, and the Collector or such officer shall cause the summons to be served as if it were summons from his own court.

Exemption of certain persons from appearance in suits.

66. (1) Women who, according to the customs and manners of the country ought not to be compelled to appear in public, shall be exempt from personal appearance before a ¹[*nyaya panchayat*] in any suit.

(2) Persons exempted from personal appearance in any court under section 133 V of the Code of Civil Procedure, 1908, shall also be exempt from personal appearance ^{1908.} before a ¹[*nyaya panchayat*] in any suit.

Issue of summons to witnesses.

67. (1) A ¹[*nyaya panchayat*] may, if it considers the evidence of, or the production of a document by any person necessary in a suit or case, issue a summons to such person to compel him to attend or to produce or cause the production of such document, and such person shall be bound to comply with the directions contained in the summons. Such summons shall be in the form and served in the manner as hereinbefore provided.

(2) A ¹[*nyaya panchayat*] may refuse to summon a witness or to enforce a summons already issued against a witness where, in its opinion, the attendance of the witness cannot be procured without an amount of delay, expense or inconvenience which in the circumstances, would be unreasonable.

(3) No ¹[*nyaya panchayat*] shall enforce the attendance of any person living outside the village to give evidence, or to produce a document, unless such sum of money is deposited with the ¹[*nyaya panchayat*] as appears to the ¹[*nyaya panchayat*] to be sufficient to defray his reasonable expenses and if in the opinion of the Collector or officer empowered under section 65, as the case may be, the attendance of any such person is not necessary for the proper adjudication of the suit or case, such Collector or officer shall return the summons to the ¹[*nyaya panchayat*] with his endorsement accordingly.

(4) No ¹[*nyaya panchayat*] shall compel any person to give evidence or to disclose any communication which such person cannot be permitted to give or compelled to disclose under the provisions of the ²Indian Evidence Act, 1872, or ¹I of under any other law for the time being in force. ^{1872.}

Pleaders, etc. excluded from appearance.

68. No pleader, vakil, or mukhtyar, and no advocate or attorney of a High Court, shall be permitted to appear on behalf of any party to any suit or case before a ¹[*nyaya panchayat*] ^{3*} * * * :

¹ These words were substituted for the words "village bench" or "bench" by Bom. 60 of 1947, s. 25.

² See Central Acts.

³ The words and figures "or in any inquiry under section 87" were omitted by Bom. 18 of 1939, s. 28.